

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

10

UNITED STATES OF AMERICA,

Plaintiff and Counter-Defendant,

and

WAYNE COUNTY DEPARTMENT OF HEALTH,  
AIR POLLUTION CONTROL DIVISION,

Plaintiff,

v.

STATE OF MICHIGAN,

Defendant, Counter-Plaintiff  
and Cross-Plaintiff,

v.

CITY OF DETROIT, a municipal corporation,  
and DETROIT WATER AND SEWERAGE DEPARTMENT,

Defendants and Cross-Defendants,

v.

ALL COMMUNITIES AND AGENCIES UNDER  
CONTRACT WITH THE CITY OF DETROIT FOR  
SEWERAGE TREATMENT SERVICES,

v.

DETROIT AREA LAUNDRY POLLUTION CONTROL  
GROUP, a voluntary, non-profit,  
unincorporated association, AND  
ITS MEMBERS,

v.

THE FOOD AND ALLIED INDUSTRIES  
COMMITTEE OF METROPOLITAN DETROIT,  
a voluntary non-profit, unincorporated  
association, AND ITS MEMBERS,

Intervening Rate Challengers.

FILED  
OCT 26 11 51 AM '92  
U.S. DISTRICT COURT  
EAST. DIST. MICH.  
DETROIT

Civil Action No.  
77-71100  
Hon. John Feikens

1487

UNITED STATES OF AMERICA and  
FRANK J. KELLEY, ATTORNEY GENERAL  
FOR THE STATE OF MICHIGAN, EX REL  
MICHIGAN NATURAL RESOURCES COM-  
MISSION, MICHIGAN WATER RESOURCES  
COMMISSION, and DAVID F. HALES,  
DIRECTOR OF MICHIGAN DEPARTMENT  
OF NATURAL RESOURCES,

Plaintiffs,

v.

WAYNE COUNTY, MICHIGAN; CITY OF  
ALLEN PARK; CITY OF BELLEVILLE;  
TOWNSHIP OF BROWNSTOWN; CITY OF  
DEARBORN HEIGHTS; CITY OF ECORSE;  
CITY OF LINCOLN PARK; CITY OF  
RIVER ROUGE; CITY OF SOUTHGATE;  
CITY OF TAYLOR; TOWNSHIP OF  
VAN BUREN; CITY OF WYANDOTTE;  
SOUTHGATE-WYANDOTTE RELIEF  
DRAINAGE DISTRICT; ECORSE CREEK  
POLLUTION ABATEMENT DRAIN,

Defendants.

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UNITED STATES OF AMERICA, and  
STATE OF MICHIGAN,

Plaintiffs,

v.

CITY OF DETROIT, MICHIGAN,

Defendant.

Civil Action No.  
87-70992  
Hon. John Feikens

Civil Action No.  
89-72937  
Hon. John Feikens

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MOTION OF THE UNITED STATES FOR AN  
OPPORTUNITY TO RESPOND TO THE COURT'S PROPOSED  
ORDER CONCERNING PAYMENT OF EXPERT MASTER CHARLES R. MOON

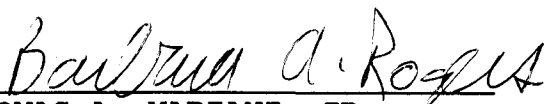
Plaintiff, the United States of America, on behalf of the  
United States Environmental Protection Agency ("EPA"), hereby  
requests that the Court allow it two weeks to provide comment on

the Court's October 16, 1992, proposed Order concerning payment of Expert Master Charles R. Moon. The grounds for this motion are set forth in the memorandum submitted herewith.

WHEREFORE, for the reasons set forth in the United States' memorandum in support, the United States respectfully requests two weeks, to November 5, 1992, to send the Court any comment on the Court's proposed Order.

Respectfully submitted,

VICKI A. O'MEARA  
Acting Assistant Attorney General  
Environment & Natural Resources  
Division  
United States Department of Justice

  
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CERTIFICATE OF SERVICE

We hereby certify that on or before October 26, 1992, a copy of the foregoing document -- Motion of the United States for an Opportunity to Respond to the Court's Proposed Order concerning Payment of Expert Master Charles R. Moon -- was served on the following, by first class mail and with postage prepaid:

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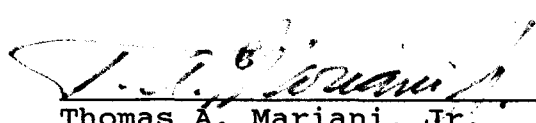
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Barbara A. Rogers

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
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MEMORANDUM OF THE UNITED STATES IN SUPPORT OF MOTION FOR AN  
OPPORTUNITY TO RESPOND TO THE COURT'S PROPOSED  
ORDER CONCERNING PAYMENT OF EXPERT MASTER CHARLES R. MOON

Plaintiff, the United States of America, on behalf of the  
United States Environmental Protection Agency ("EPA"), submits  
this memorandum in support of its motion requesting that the

Court allow it two weeks to address the Court's proposed Order concerning payment of Expert Master Charles R. Moon. As grounds for its motion, the United States states as follows:

1. The Court sent a letter dated October 16, 1992, to counsel for co-plaintiff the State of Michigan, and to counsel for three of the defendants in these actions. That letter requested that within five days of receipt of the letter, the recipients send the Court any comments on a proposed Order that accompanied the letter and which concerns the source of payment of the Expert Master.

2. Under the Court's proposed Order, Mr. Moon would be paid by the engineering firm managing a national wet weather demonstration project recently funded in principal part through a \$46 million federal grant set aside for the County of Wayne, Michigan. Under the Court's proposed Order, Mr. Moon's compensation, including accrued compensation of approximately \$42,053 as of September 30, 1992, would be considered a project cost of the wet weather demonstration project. Thus, under the proposed Order much of Mr. Moon's past and future work as Expert Master for the Court would be financed through the grant monies appropriated by the United States.

3. Co-plaintiff the United States was not served with the Court's letter and proposed Order. The United States was not aware of the Court's issuance of that proposed Order until the afternoon of Wednesday October 21, 1992, when one of the other parties to these actions brought the matter to the United States'



attention. The United States immediately made arrangements to obtain a copy of the letter and proposed Order, and received a copy on the afternoon of Thursday October 22, 1992.

4. The United States has previously expressed serious reservations concerning the appointment, function and financing of the Expert Master, including at a hearing before the Court on May 19, 1992, and in response to inquiries made of EPA employees in the past several months concerning their reactions to the idea that compensation for the Expert Master be paid out of the \$46 million federal grant. EPA's responses to these inquiries were consistently negative.

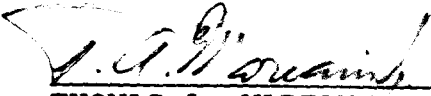
5. Notice of and an opportunity to submit comment on the proposed order from the Court should not be limited to fewer than all of the parties to this action, since it potentially affects the substantive rights, obligations and interests of the respective parties.

6. For the United States to effectively evaluate and respond to the Court's proposed Order will require analysis of several factual and legal issues.

WHEREFORE, for the foregoing reasons, the United States respectfully requests that it be granted until November 5, 1992, two weeks from the date of receipt of the proposed Order, to send the Court any comment on the Court's proposed Order.

Respectfully submitted,

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